

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Marvit, et al.
Serial No.: 10/807,562
Filing Date: March 23, 2004
Confirmation No. 4041
Group Art Unit: 2629
Examiner: Regina Liang
Title: *Motion Controlled Remote Controller*

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

ELECTRONICALLY FILED
WITH THE USPTO ON
January 16, 2008

Dear Sir:

REPLY BRIEF

Appellants respectfully submit this Reply Brief under 37 C.F.R. § 41.41 in response to the Examiner's Answer transmitted November 16, 2007. Appellants filed an Appeal Brief on September 27, 2007 explaining clearly and in detail why the final rejections of Claims 1-20 are improper and should be reversed by the Board of Patent Appeals and Interferences. In the Examiner's Answer, the rejections are sustained.

Argument

Appellants respectfully submit this Reply Brief under 37 C.F.R. § 41.41 in response to the Examiner's Answer transmitted November 16, 2007. Appellants filed an Appeal Brief explaining clearly and in detail why the final rejections of Claims 1-20 are improper and should be reversed by the Board of Patent Appeals and Interferences (the "Board"). In the Examiner's Answer, the rejections are sustained. The Examiner rejects Claims 1-6, 8-12, 14-18 and 20 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,598,187 to Ide et al ("*Ide*") in view of U.S. Publication No. 2004/0061621 to Ishida ("*Ishida*") and rejects Claims 17, 13 and 19 under 35 U.S.C. 103(a) as being unpatentable over *Ide* and further in view of WO 01/86920 to Lapidot ("*Lapidot*").

In the Examiner's Answer, the Examiner responds to some of the arguments made by Appellants in the Appeal Brief with respect to the rejections indicated above. *See* Examiner's Answer, pages 5-6. Appellants reply to the Examiner's responses below.

I. Appellants' Reply to Examiner's Responses Regarding the Failure of the Proposed Combination of *Ide* and *Ishida* to Disclose, Teach, or Suggest Each Claim Limitation

In the Examiner's Answer, the Examiner initially addresses Appellants' argument that the proposed combination of *Ide* and *Ishida* fails to disclose, teach, or suggest each claim limitation. In the Appeal Brief, Appellants pointed out that in *Ide* a "motion code" indicating a corresponding "basic motion pattern" is transmitted but that neither *Ide* nor *Ishida* disclose a wireless interface operable to transmit a *command* to a remote receiver. *See* Appeal Brief, pages 10-11. In response, the Examiner contends that:

Ide clearly discloses "The motion code is transmitted from the infrared remote-control transmitting circuit 43 and the infrared light-emitting element 34 to the control target device. Receiving the code, the control target device executes a control process according to the given motion code" . . ., clearly, the motion code in Ide is **the identified command**, even though Ide does not explicitly use the term "command" it is clear that Ide's "motion code" is a "command" as claimed.

Examiner's Answer, page 5 (emphasis added by Examiner). Appellants respectfully disagree. *Ide* clearly discloses that a motion recognizing section 41 of the disclosed mouse first converts signals indicating movements into motion pattern data and acquires a motion code

indicating the corresponding basic motion pattern, and the *motion code* indicating the motion pattern is sent to the remote target device. *See Ide*, col. 14, lines 37-48. The *target device* must then take the motion code indicating the motion pattern and execute a control process in order to determine a command. *See Ide*, col. 14, lines 46-48. Contrary to the Examiner's contention, the motion code transmitted in *Ide* is not an identified command – instead it is a code corresponding to a motion pattern which is sent to the target device for determining a command. *Ide* even discloses that multiple codes can be sent, and the target device may carry out a suitable operation on the basis of the given pairs of data items. *See Ide*, col. 14, lines 63 – col. 15, line 1. *Ide* does not disclose transmission of an identified command to a remote receiver as is claimed. In Appellants' Claim 1, movement is tracked, a matching gesture is determined, a corresponding command is identified, and the *identified command is delivered* to the remote device.

Therefore, as indicated in the Appeal Brief, Appellants respectfully submit that the proposed combination of *Ide* and *Ishida* does not disclose each element of Claim 1, similar elements of Claims 8, 14, and 20, and all claims depending therefrom.

II. Appellants' Reply to Examiner's Responses Regarding the Impropriety of the Proposed Combination of *Ide* and *Ishida*

The Examiner next addresses Appellants' arguments that the proposed combination of *Ide* and *Ishida* is improper. *See Examiner's Answer*, pages 5-6. The Examiner references a built-in monitor of *Ishida* and suggests it would be obvious to provide a monitor on the handheld device of *Ide* so that a user can control the device while viewing the monitor. The Examiner calls Appellants' points that *Ide* teaches away from this combination misleading and not persuasive because the mouse of *Ide* is not a conventional mouse since "it also controls multi functions of a multimedia TV or a computer." *Examiner's Answer*, page 6. However, despite these teachings in *Ide*, Appellants' contention that *Ide* teaches away from a combination with *Ishida* is still valid.

As Appellants pointed out, even if *Ishida* does provide for a monitor on a control device, *Ide* clearly teaches away from any combination that places a monitor on its spatial control device as described in *Ide* because, as described in *Ide*, the spatial control device is

used to move a cursor on a screen. As *Ide* states, "the operator moves the mouse on the desk to move the cursor interlocking with the mouse movement to the desired object . . . appearing on the display. With the cursor positioned over the desired object on the display, he clicks (or releases) an acknowledge switch called a click button of the mouse to enter data to the system." *Ide*, col. 1, lines 21-28. Thus, when using the mouse, the user watches the screen to track the movement of the cursor while the user's hand is on the mouse. There is therefore no motivation to include a viewable display on an input device as described by *Ide*, and the cited references teach away from such a combination.

The Examiner argues otherwise because:

Ide's "spatial control mouse" not only controls the cursor on a screen of a PC (Fig. 3), it also controls multi functions of a multimedia TV or a computer (e.g., see Figs. 12, 17, 33). Clearly, *Ide*'s "spatial control mouse" is a multi-functions handheld remote controller and not just a mouse as erroneously alleged by appellant.

Examiner's Answer, page 6. However, despite the fact that *Ide* discloses that its mouse can control a television and other devices, the mouse is *still operating in the conventional manner* in this disclosure with respect to the way it controls a cursor on those devices. For example, Figure 12 of *Ide* discloses a multimedia television controlled by the mouse. *Ide* discloses here that the mouse is still controlling a cursor on screen 122 of the television:

[W]hen the operator presses the cursor button 114 of the mouse with his first finger (e.g., the thumb), a cursor appears on the screen 122. Moving the mouse body 111, the operator moves the cursor to an object to be clicked. Then, he presses the click button 117 with his second finger (e.g., the index finger or the middle finger).

Using the screen examples of FIGS. 13A to 13D, an example of operating the spatial control image system will be described. It is assumed that the contents of channel A are displayed on the screen. The state in such a screen is shown in FIG. 13A. For instance, when the operator wants to see channel D on the screen, he first clicks the cursor button 114. Then, an input screen 124 appears as shown in FIG. 13B. At this time, characters A to F indicating channels appear on the input screen 124. The current channel A is enclosed by a square cursor. The operator moves the mouse to move the cursor to character D as shown in FIG. 13C. Thereafter, he presses the click button 117 and then the cursor button 114. Then, the channel is changed as shown in FIG. 13D, and the input screen 124 disappears.

Such an operation can be applied to various actions such as volume control or hue adjustment, in addition to channel selection. As described above, use of the spatial control mouse of the invention allows the operator to

perform an input operation while watching the television screen differently from when a conventional button-operated infrared remote-control device with many function keys is used. Thus, the operator is freed from memorizing the functions of many buttons and troublesome button operations. Namely, the spatial control mouse provides a very easy operation environment for the operator to use.

Ide, Figures 12, 13A, 13B, 13C, 13D and col. 11, lines 8-45 (emphasis added). Thus, the device being controlled in this case still has a screen to view to control the device with the mouse thereby teaching away from any need for a display on the mouse.

Similarly, Figure 17 of *Ide* cited by the Examiner discloses a display unit 202 with a screen 203 that is viewed to control the display unit with the mouse:

For example, the function shown in FIG. 17 can be realized. FIG. 17 shows an example of an input operation using a spatial motion pattern of the invention. As shown in the figure, the operator can move the spatial control mouse 1 from a to b and to c in a triangle to select a triangle item from the choices displayed on the screen 203 of a display unit 202.

Ide, Figure 17 and col. 16, lines 13-22.

Finally, Figure 33 of *Ide* cited by the Examiner also discloses a screen 203 on a display unit 202 to be viewed while using the mouse:

FIG. 33 shows a method of inputting motion patterns in three-dimensional movements. The operator can draw a triangular pyramid on the screen 203 of a display unit 202 by moving the mouse 1 in a triangular pyramid, starting with a, and passing through b, c, c, e, and f in that order.

Ide, Figure 33 and col. 22, lines 6-10.

Thus, *Ide* discloses a mouse controlling various devices with screens that the user of the mouse can view to perform the control, such as moving a cursor around the screen. *Ide*'s disclosure clearly teaches away from a combination with *Ishida* that would place a monitor on the mouse because there is no motivation to do so.

Therefore, as indicated in the Appeal Brief, Appellants respectfully submit that the proposed combination of *Ide* and *Ishida* is improper and request that the Board overturn the rejections of Claims 1, 8, 14, and 20 and all claims depending therefrom.

Conclusion

Appellants have demonstrated, through their Appeal Brief and this Reply Brief, that the present invention, as claimed, is clearly distinguishable over the prior art cited by the Examiner. Therefore, Appellants respectfully request the Board of Patent Appeals and Interferences to reverse the Examiner's final rejection of the pending claims and instruct the Examiner to issue a notice of allowance of all pending claims.

Appellants believe no fees are due in the filing of this Reply Brief. However, the Commissioner is hereby authorized to charge any fee and credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Appellants



Chad C. Walters
Reg. No. 48,022

Date: January 16, 2008

CORRESPONDENCE ADDRESS:

Customer No.:

05073